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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of )

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) Redesignation of the 17.7-19.7 GHz Frequency  
) Band, Blanket Licensing of Satellite  
) Earth Stations in the 17.7-20.2 GHz and  
) 27.5-30.0 GHz Frequency Bands,  
) and the Allocation of Additional Spectrum  
) in the 17.3-17.8 GHz and 24.75-25.25 GHz  
) Frequency Bands for Broadcast  
) Satellite-Service Use )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
IB Docket No. 98-172

RM-9005

RM-9818

**COMMENTS OF THE  
WIRELESS COMMUNICATIONS ASSOCIATION INTERNATIONAL, INC.**

The Wireless Communications Association International, Inc. ("WCA"), by its attorneys, hereby files its initial comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM") commencing the above-referenced proceeding.<sup>1/</sup> Although WCA is a member of the Fixed Wireless Communications Coalition ("FWCC") and fully supports the proposals being advanced by the FWCC in its own filing today, WCA writes separately to emphasize the dramatic adverse impact that adoption of the channelization plan for the 17.7-19.7 GHz proposed in the *NPRM* would have on WCA's membership.

WCA is the trade association of the fixed wireless broadband communications industry,

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<sup>1/</sup>*Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band*, FCC 98-235 (rel. Sept 18, 1998) (hereinafter cited as "*NPRM*"). The *NPRM* was published in the *Federal Register* on October 8, 1998, 63 Fed. Reg. 54100.

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representing a broad array of Commission licensees, communications service providers, equipment vendors and others engaged in the provision of video, voice and data services through fixed terrestrial wireless facilities. WCA and its members are vitally concerned that adoption of the channelization plan proposed in the *NPRM* will have serious adverse repercussions for those who today utilize the 18.142-18.580 GHz band for video distribution, as well as for those who are planning to deploy cellularized Multipoint Distribution Service (“MDS”), Local MDS (“LMDS”), Wireless Communications Service (“WCS”), Digital Electronic Message Service (“DEMS”), and 38 GHz band “last mile” facilities with backbone point-to-point interconnection utilizing the 17.7-19.7 GHz band.

The fundamental flaw in the *NPRM* is that the proposed channelization plan effectively denudes the terrestrial microwave community of the spectrum needed to meet existing demand and anticipated growth. WCA members routinely utilize the 18.142-18.580 GHz band to transmit video programming and related services from wireless cable headends to transmission facilities (which use can be licensed either in the Cable Television Relay Service (“CARS”) under Part 78 or in the Private Operational Fixed Service (“OFS”) under Part 101) and to provide private cable services to multiple dwelling units (“MDUs”). The Emergency Request for Immediate Relief submitted by the Independent Cable and Telecommunications Association (“ICTA”) earlier this month establishes beyond peradventure the harm that will be done to those private cable system operators who rely on the 18.142-18.580 GHz band to relay video programming services to MDU residents in competition with the cable industry, and those

arguments need not be repeated here.<sup>2/</sup> ICTA's showing should come as no surprise to the Commission, however; WCA has previously warned the Commission that users of the 18.142-18.580 GHz band cannot share the band with satellite services,<sup>3/</sup> and agrees with ICTA that no portion of the 18.142-18.580 GHz band can be relegated to co-primary or secondary status without effectively terminating the prospects for additional competition to the franchised cable industry.

However, it is not just competition to the cable industry that is threatened by the channelization plan proposed in the *NPRM*; competition in the provision of high speed data and local exchange services also will be undermined. While the Commission has promoted MDS,

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<sup>2/</sup>See Emergency Request for Immediate Relief, IB Docket No. 98-172 (filed Nov. 5, 1998).

<sup>3/</sup>See Comments of WCAI, RM-9005, at 4-8 (filed Sept. 24, 1997).

WCS, LMDS, DEMS and 38 GHz services as viable competitors in these markets,<sup>4/</sup> that competition cannot thrive unless the Commission affords system operators access to adequate point-to-point microwave backbone facilities. As the FWCC ably demonstrates in the comments it is filing with the Commission today, adoption of the proposal advanced in the *NPRM* would substantially reduce the amount of spectrum that, as a practical matter, is available for interconnection. The demand for microwave interconnection is just beginning to grow, as fixed wireless service providers are just starting to aggressively roll out their service offerings. That growth, however, inevitably will be stunted if reliable, inexpensive microwave paths are no longer available for interconnecting cells and other essential facilities.

For these reasons, WCA strongly supports the alternative channelization plan being

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<sup>4/</sup>See, e.g., *Rulemaking to Amend Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, 12 FCC Rcd 12545, 12605 (1997) ("We expect that many LMDS providers will seek to provide one-way and two-way voice and data subscriber-based services over their systems in addition to providing video programming services."); *Amendment of the Commission's Rules To Relocate the Digital Electronic Messaging Service From the 18 GHz Band To the 24 GHz Band and To Allocate the 24 GHz Band for Fixed Service*, ET Docket No. 97-99, FCC 98-155, ¶ 25 (rel. July 17, 1998) ("DEMS licensees are planning to use their licenses to provide wireless local loop and data services that will compete with local exchange services currently available only, or primarily, from local exchange carriers."); *Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40 GHz Bands*, 12 FCC Rcd 18600, 18607 (1997) (recognizing potential uses for 39 GHz band could include wireless local loop, call termination and origination services for long distance companies, connection of customers to fiber of competitive access providers, Internet access and other services); *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service*, 12 FCC Rcd 10785, 10798 (1997) (adopting flexible use of WCS spectrum for "a wide range of potential uses, including interactive, high-speed, broadband data services, such as Internet access; return links for interactive cable and broadcasting service; mobile data; satellite DARS; fixed terrestrial use; new and innovative services; radiolocation; educational applications; and wireless local loop.").

advanced by FWCC in its comments. That channelization plan not only preserves the 18.142-18.580 GHz band for video use, but also minimizes the adverse impact on non-video point-to-point microwave users while still affording the satellite community adequate capacity to meet their reasonable service needs.

Finally, the Commission should use this proceeding to eliminate obsolete restrictions that prevent wireless cable and private cable system operators from utilizing all OFS bands for the transmission of their service offerings. Specifically the Commission should: (i) eliminate Section 101.603(b)(3) of its rules, which prohibits licensees from using OFS facilities (other than those operating at 6,425-6,525, 18142-18,580 and above 21,200 MHz) for the transmission of program material as the final RF link to multipoint distribution systems or master antenna TV systems; and (ii) revise Section 101.906(a)(1) and (2) to provide all OFS licensees the flexibility to utilize their spectrum for the delivery of video programming to customers. Now that the Commission has embraced the concept that marketplace demand, rather than Commission fiat, should dictate how spectrum is deployed,<sup>5/</sup> it is time for these restrictions on the use of OFS facilities to be lifted.

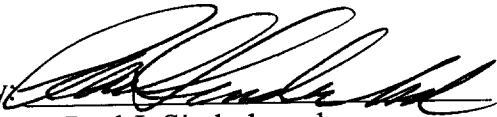
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<sup>5/</sup>See, e.g., *Nextel License Acquisition Corp.*, DA 98-1136, ¶ 17 (Wir. Tel. Bur., rel. June 15, 1998) ("Our policy has been to allow SMR licensees to make flexible use of the spectrum ..."); *Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands: Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 37.0-38.6 GHz and 38.6-40.0 GHz*, 12 FCC Rcd 18600, 18615-16 (1997) (adopting flexible use policy for operations in 39 GHz bands over incumbents' objections of technical incompatibility); *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS")*, 12 FCC Rcd 10785, 10798 (1997) ("We believe that in this instance a flexible use allocation serves the public interest. Permitting a broad range of services to be provided on this spectrum will permit the development and deployment of new telecommunications services and products to consumers."); *Allocation of Spectrum Below 5 GHz Transferred From Federal Government Use*, 11 FCC Rcd 624, 631 (1995) ("The flexible GWCS approach should permit a range of qualified uses ... while permitting new technologies and services to emerge and encouraging efficient use of this spectrum."); *Rulemaking to Amend Parts 1, 2, 21, and 25 Of the*

WHEREFORE, for the foregoing reasons, WCA urges the Commission to adopt the FWCC proposed channelization plan in lieu of that proposed in the *NPRM*.

Respectfully submitted,

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*Commission's Rules to Redesignate The 27.5-29.5 GHz Frequency Band, To reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service And for Fixed Satellite Services Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to- Point Microwave Radio Service Rules Suite 12 Group Petition for Pioneer Preference, 12 FCC Rcd 12545, 12637 (1997) ("We conclude that ... our significant allocation of spectrum under such a broad and flexible service definition should permit licensees to satisfy a broad array of their customers' communications needs, whether through one or multiple service offerings."); Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems; Amendment of Parts 2, 15, and 90 of the Commission's Rules and Regulations to Allocate Frequencies in the 900 MHz Reserve Band for Private Land Mobile Use; Amendment of Parts 2, 22 and 25 of the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to the Use of Radio Frequencies in a Land Mobile Satellite Service for the Provision of Various Common Carrier Services, 2 FCC Rcd 1825, 1838 (1986) ("[W]e recognize[] that some uncertainty may exist as to the best use of radio spectrum at any particular time or place. We suggested that a more flexible approach that would place greater reliance upon market forces to apportion spectrum among the various mobile services might be in the public interest.").*